

Of Counsel
DAMON KEY LEONG KUPCHAK HASTERT
A Law Corporation

ROSS UEHARA-TILTON 10743-0

rut@hawaiilawyer.com

CASEY T. MIYASHIRO 11145-0

ctm@hawaiilawyer.com

1003 Bishop Street, Suite 1600

Honolulu, Hawaii 96813

www.hawaiilawyer.com

Telephone: (808) 531-8031

Facsimile: (808) 533-2242

Attorneys for Defendant

LYNNAE L. L. LEE,

Personal Representative

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

MICHAEL L. MCCLAIN,	) CIVIL NO. _____
)
Plaintiff,	) DEFENDANT'S NOTICE OF
	) REMOVAL OF CIVIL ACTION;
vs.	) EXHIBIT "A"; NOTICE OF FILING
	) OF NOTICE OF REMOVAL
LYNNAE L. L. LEE, PERSONAL)
REPRESENTATIVE OF THE)
ESTATE OF RICHARD YIN)
SUNG LEE, ALSO KNOWN AS)
RICHARD Y. S. LEE AND)
RICHARD LEE,)
)
Defendant.)
)

DEFENDANT'S NOTICE OF REMOVAL OF CIVIL ACTION

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1332(a)(1), Defendant LYNNAE L. L. LEE, in her capacity as Personal Representative of the Estate of RICHARD YIN SUNG LEE (“**Defendant**”), by and through her undersigned counsel, DAMON KEY LEONG KUPCHAK HASTERT, hereby timely removes this action from the Circuit Court of the First Circuit of the State of Hawaii to the United States District Court for the District of Hawaii. The following allegations support removal (and are not to be construed as admissions):

BACKGROUND

1. Plaintiff MICHAEL L. MCCLAIN (“**Plaintiff**”) filed his *Complaint* on July 9, 2024, in the Circuit Court of the First Circuit of the State of Hawaii.¹

2. A true and correct copy of the Complaint is attached to this Notice as **Exhibit A**.

3. Plaintiff is a resident (and citizen) of Loxahatchee, Florida. Complaint ¶ 1.

4. Defendant is Personal Representative of the Estate of her father, RICHARD YIN SUNG LEE (“**Richard**”), under probate proceedings in the Circuit

¹ The Complaint is captioned for the Circuit Court of the *Third* Circuit, and describes real property located in the County of Hawaii. However, the Complaint was actually filed in the First Circuit (likely in error).

Court of the First Circuit of the State of Hawaii, under docket No. 1CLP-22-232.

Id. ¶ 16.

5. Defendant is a resident and citizen of the City and County of Honolulu, State of Hawaii. *Id.* ¶ 3.

6. Richard was an attorney, and beginning in 1998, represented Plaintiff in divorce proceedings in the Family Court of the First Circuit of the State of Hawaii (“**Divorce Matter**”). *Id.* ¶ 7.

7. On or about August 15, 2000, Richard filed a *Notice of Attorney’s Lien for Fees and Costs* in the Divorce Matter, asserting a lien in the minimum amount of \$81,218.56, which was recorded in the bureau of Conveyances of the State of Hawaii as Document No. 2000-113899 (“**Lien**”). *Id.* ¶ 10.

8. As set forth in Exhibit “2” attached to the Lien, as security for Plaintiff’s obligation to pay attorneys’ fees and costs, Plaintiff assigned to Richard Plaintiff’s interest in a settlement payment in the principal amount of \$2,000,000, which was otherwise to be paid to Plaintiff as primary beneficiary of the Felicia McClain Special Needs Trust.

9. Plaintiff and Richard participated in binding arbitration, which resulted in a final arbitration award, in the principal amount of \$66,567.83, exclusive of post-award interest. *Id.* ¶¶ 11–12.

10. The Lien and resulting arbitration award encumber Plaintiff's real property, located at 25-197 Pukana La Street, Hilo, Hawaii 96720 ("Property"). *Id.* ¶¶ 15 and 18–19.

11. The 2024 tax-assessed value of Plaintiff's real property is \$196,600.

12. Among other relief, Plaintiff seeks to quiet title and an order and judgment expunging the Lien. *Id.* ¶ 21.

GROUNDS FOR REMOVAL

13. Defendant remove this case under 28 U.S.C. § 1332(a)(1).

14. This Court has original jurisdiction over this matter under 28 U.S.C. § 1331(a)(1) because the matters in controversy, which are Plaintiff's interest in the Property and the amounts owed by Plaintiff to Richard (and Defendant, as Personal Representative of Richard's Estate), exceed the sum or value of \$75,000 and Plaintiff and Defendant are citizens of different states.

VENUE

15. The Circuit Courts of the First and Third Circuits in the State of Hawaii are located within the District of Hawaii. Thus, venue in this Court is proper under 28 U.S.C. § 1441(a).

TIMELINESS OF REMOVAL

16. Defendant was served with the Complaint on September 3, 2024.

See Return and Acknowledgment of Service, Sep. 13, 2024.

17. This Notice is being filed within thirty (30) days of Defendant's receipt of the Complaint, and removal is therefore timely under 28 U.S.C. § 1446(b)(3).

OTHER PROCEDURAL REQUIREMENTS

18. As required by 28 U.S.C. § 1446(a), the Appendix filed concurrently with this Notice consists of copies of all process, pleadings, orders, and other papers and exhibits filed in the State Court Lawsuit.

19. As required by 28 U.S.C. § 1446(d), Defendant will give written notice of this filing to all adverse parties and the Clerk of the Circuit Court of the First Circuit of the State of Hawaii.

NON-WAIVER OF DEFENSES

20. By removing this action, Defendant does not waive any defenses it may have to this action, including without limitation, the defense of lack of subject matter jurisdiction.

WHEREFORE, Defendant prays that, upon filing this Notice of Removal, this action will be regarded as having been removed to, and pending in, the United States District Court for the District of Hawaii.

DATED: Honolulu, Hawaii, October 2, 2024.

DAMON KEY LEONG KUPCHAK HASTERT

/s/ Ross Uehara-Tilton

ROSS UEHARA-TILTON
CASEY T. MIYASHIRO

Attorneys for Defendant
LYNNAE L. L. LEE,
Personal Representative

880243

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

MICHAEL L. MCCLAIN,	) CIVIL NO. _____
)
Plaintiff,	) NOTICE OF FILING OF NOTICE
	) OF REMOVAL
vs.)
)
LYNNAE L. L. LEE, PERSONAL)
REPRESENTATIVE OF THE)
ESTATE OF RICHARD YIN)
SUNG LEE, ALSO KNOWN AS)
RICHARD Y. S. LEE AND)
RICHARD LEE,)
)
Defendant.)
)

NOTICE OF FILING OF NOTICE OF REMOVAL

NOTICE IS HEREBY GIVEN that the foregoing Notice of Removal of *McClain v. Lee*, Civil No. 1CCV-24-905, pending in the Circuit Court of the First Circuit of the State of Hawaii, was filed with the United States District Court for the District of Hawaii.

[Signature page follows]

DATED: Honolulu, Hawaii, October 2, 2024.

DAMON KEY LEONG KUPCHAK HASTERT

/s/ Ross Uehara-Tilton

ROSS UEHARA-TILTON
CASEY T. MIYASHIRO

Attorneys for Defendant
LYNNAE L. L. LEE,
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Attorneys for Defendant

LYNNAE L. L. LEE,

Personal Representative

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

MICHAEL L. MCCLAIN,	) Civil No. 1CCV-24-0000905 (JMT)
)
Plaintiff,	) NOTICE OF FILING OF NOTICE OF
	) REMOVAL IN THE UNITED STATES
vs.	) DISTRICT COURT FOR THE DISTRICT
	) OF HAWAII; EXHIBIT "1"
LYNNAE L. L. LEE, PERSONAL)
REPRESENTATIVE OF THE ESTATE)
OF RICHARD YIN SUNG LEE, ALSO)
KNOWN AS RICHARD Y. S. LEE AND)
RICHARD LEE,)
Defendant.	) Judge: The Honorable John M. Tonaki
	) Trial Date: Not Yet Set
)

**NOTICE OF FILING OF NOTICE OF REMOVAL IN THE
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII**

NOTICE IS HEREBY GIVEN that on October 2, 2024, Defendant LYNNAE L. L. LEE, Personal Representative, filed a *Notice of Removal of Civil Action* in the United States District Court for the District of Hawaii, under Civil No. _____, removing the above-captioned

proceeding pursuant to 28 U.S.C. § 1331(a)(1). True and correct copies of the *Notice of Removal* and *Notice of Filing of Notice of Removal* are attached as **Exhibit 1**.

Upon filing of the said Notice of Removal with the United States District Court, and filing a copy thereof with this Court, Defendant has effected removal and this Court shall proceed no further in this action unless and until the case is remanded pursuant to 28 U.S.C. § 1446(d).

DATED: Honolulu, Hawaii, October 2, 2024.

DAMON KEY LEONG KUPCHAK HASTERT

/s/ Ross Uehara-Tilton

ROSS UEHARA-TILTON
CASEY T. MIYASHIRO

Attorneys for Defendant
LYNNAE L. L. LEE,
Personal Representative

Of Counsel
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Attorneys for Defendant

LYNNAE L. L. LEE,

Personal Representative

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

MICHAEL L. MCCLAIN,	) Civil No. 1CCV-24-0000905 (JMT)
)
Plaintiff,	) NOTICE OF APPEARANCE OF
	) COUNSEL FOR DEFENDANT
vs.)
)
LYNNAE L. L. LEE, PERSONAL)
REPRESENTATIVE OF THE ESTATE)
OF RICHARD YIN SUNG LEE, ALSO)
KNOWN AS RICHARD Y. S. LEE AND)
RICHARD LEE,)
	) Judge: The Honorable John M. Tonaki
Defendant.	) Trial Date: Not Yet Set
)

NOTICE OF APPEARANCE OF COUNSEL FOR DEFENDANT

NOTICE IS HEREBY GIVEN that ROSS UEHARA-TILTON and CASEY T. MIYASHIRO of the law firm Damon Key Leong Kupchak Hastert enter their appearance as counsel in this proceeding for Defendant LYNNAE L. L. LEE, Personal Representative.

DATED: Honolulu, Hawaii, October 2, 2024.

DAMON KEY LEONG KUPCHAK HASTERT

/s/ Ross Uehara-Tilton

ROSS UEHARA-TILTON
CASEY T. MIYASHIRO

Attorneys for Defendant
LYNNAE L. L. LEE,
Personal Representative